

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-5, 7-21, and 23-29 are presently active in this case, Claims 1-5, 7, 9-21, and 23-29 having been amended by way of the present Amendment.

Claims 5, 12, 14, 16, 21, 24, 26, and 28 were allowed.

Claims 11, 13, 15, 17, 23, 25, 27, and 29 were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2-5, 7, 9-21, and 23-29 were objected to for minor informalities. The claims have been amended to change "the layer" to "the first layer," which has clear antecedent basis in the independent claims. The claims have been amended to clarify that there is a first layer, a first sub-layer, a second sub-layer, and a physical layer. Additionally, lines 2-3 of Claim 2 were amended as suggested on page 2 of the Official Action. Accordingly, the Applicant respectfully requests the withdrawal of the objections to the claims.

In the outstanding Official Action, Claims 1-4 and 8 were rejected under 35 U.S.C. 102(e) as being anticipated by Ahmadvand (U.S. Patent No. 6,477,670). Claims 7 and 18-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmadvand in view of Hwang (U.S. Patent Pub. No. 2004/0057460). Claims 9 and 10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmadvand in view of Sarkkinen et al. (U.S. Patent No. 6,950,420). For the reasons discussed below, the Applicant requests the withdrawal of the art rejections.

In the Office Action, the Ahmadvand reference is indicated as anticipating independent Claim 1. However, the Applicant notes that a claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As will be demonstrated below, the Ahmadvand reference clearly does not meet each and every limitation of amended independent Claim 1.

Claim 1 of the present application recites a system for transmitting data over a physical resource, comprising a first layer configured to manage the physical resource and to guarantee a quality of service, and has been amended to recite that the first layer guarantees the quality of service by assigning a set level to the ratio of received signal power to noise plus interference. The Applicant submits that the Ahmadvand reference does not disclose all of the above limitations recited in Claim 1.

The Ahmadvand reference fails to disclose a first layer that guarantees a quality of service by assigning a set level to the ratio of received signal power to noise plus interference, as recited in Claim 1. The Official Action cites column 6, lines 13-19, of the Ahmadvand reference for the teaching of the first layer. This portion of the Ahmadvand reference states that “[t]here are a number of entities inside a QoS plane (1 . . . n) that can be dynamically reconfigured, or fine tuned and optimized to meet specific QoS requirements of a CoS,” and then mentions several entities that can be reconfigured. However, the Ahmadvand reference never discloses or even suggests a first layer that guarantees a quality of service by assigning a set level to the ratio of received signal power to noise plus interference, as recited in Claim 1. In fact, the Ahmadvand reference never discusses noise

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and never discusses such a ratio as defined, nor does the Ahmadvand reference disclose a layer that guarantees a quality of service by assigning a set level to such a ratio.

Thus, the Applicant respectfully submits that the Ahmadvand reference clearly does not disclose all of the limitations expressly recited in Claim 1 of the present application, and therefore the Ahmadvand reference does not anticipate Claim 1.

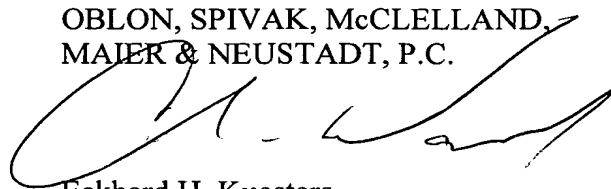
Accordingly, the Applicant requests the withdrawal of the anticipation rejection of Claim 1.

Claims 2-4, 7-10, and 18-20 are considered allowable for the reasons advanced for Claim 1 from which they depend. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of Claim 1.

Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully Submitted,

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